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**From:** Carroll, Thomas [Carroll.Thomas@epa.gov]  
**Sent:** 11/12/2020 11:56:49 PM  
**To:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]  
**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Yes, that is an interesting issue—what do you do when EPA’s regulations don’t line up with traditional principles of corporate limited liability.

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**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Thursday, November 12, 2020 6:38 PM  
**To:** Carroll, Thomas <Carroll.Thomas@epa.gov>  
**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Okay.

Another thing to discuss tomorrow -- Cecil Rodriguez mentioned a continuing concern with the penalty in Ex. 7(A)

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**From:** Carroll, Thomas <Carroll.Thomas@epa.gov>  
**Sent:** Thursday, November 12, 2020 6:12 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Yes on Ex. 7(A) but the news is not encouraging. I thought Karen Dworkin had advanced it, but Steve Shermer told me that she had comments that went back Ex. 6 Personal Privacy (PP) the trial attorney. Kirk is implementing Karen’s changes Ex. 7(C) is one of mine as ASC, and he Ex. 6 Personal Privacy (PP) pandemic isolation. I am keeping in touch with Steve and will call Karen if necessary. Sorry, I thought the situation was better than it is. -- Tom

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**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Thursday, November 12, 2020 6:05 PM  
**To:** Carroll, Thomas <Carroll.Thomas@epa.gov>  
**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Sounds good.

Could we also talk about the Ex. 7(A) I’m curious to know what you’re hearing about its progress at DOJ.

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**From:** Carroll, Thomas <Carroll.Thomas@epa.gov>  
**Sent:** Thursday, November 12, 2020 5:28 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>  
**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Yes, I had it on my list to talk about.

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**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Thursday, November 12, 2020 5:27 PM  
**To:** Carroll, Thomas <Carroll.Thomas@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Denton, Loren

<Denton.Loren@epa.gov>

**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Tom—

I want you to know that I have been wrestling with this issue since I read your email on Tuesday. Can we discuss it at our weekly check in tomorrow?

Rosemarie

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**From:** Carroll, Thomas <Carroll.Thomas@epa.gov>

**Sent:** Tuesday, November 10, 2020 3:26 PM

**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>

**Subject:** FW: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Rosemarie, Karin, Loren,

I am looking for advice. [REDACTED] has been honored with an invitation to participate in an ELI panel consisting of “emerging leaders” chosen by ELI. The panel is on “The 2020 Election – Where Do We Go From Here?” The date of the event is December 9.

[REDACTED] proposes to do this in his personal capacity, and would ask the organizers to omit any reference to his EPA position. He sets out below the reason why he thinks this is approvable.

I am concerned that it will be difficult for an ELI audience to separate Evan’s personal views from his role as [REDACTED]. [REDACTED] I am also concerned about his appearing on a panel with an employee of Toyota. Finally, I am concerned that the topic makes it difficult to steer clear of politics and sensitive transition issues.

At the same time, I think he deserves the recognition and would benefit from this activity.

I’m on the fence about it and would appreciate your views.

Tom

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**From:** [REDACTED] Ex. 6 Personal Privacy (PP)

**Sent:** Tuesday, November 10, 2020 2:54 PM

**To:** Carroll, Thomas <Carroll.Thomas@epa.gov>

**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Happy to discuss. To separate my remarks from my position at EPA, I would not discuss any of the particular matters or initiatives in EPA’s enforcement program. My remarks would be generally about the big issues in envtl law and policy that are likely to get attention. I follow a range of envtl and energy issues as a matter of personal interest, and I’d value the chance to step out of the role of anonymous government employee and share some of my personal views as a member of this Emerging Leaders Initiative.

As for Toyota’s presence on the panel, my plan would simply be to make no comment at all about the case (we haven’t publicly said a word so far) and I would be avoiding any discussions of automaker enforcement anyway.

[REDACTED] Ex. 6 Personal Privacy (PP)

**From:** Carroll, Thomas <Carroll.Thomas@epa.gov>  
**Sent:** Tuesday, November 10, 2020 8:16 AM  
**To:** Ex. 6 Personal Privacy (PP)  
**Subject:** RE: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Let's discuss. I am concerned that it is difficult to separate your remarks in your personal capacity from your position as Ex. 6 Personal Privacy (PP) am also concerned about your appearance on a panel with a Toyota employee. -Tom

**From:** Ex. 6 Personal Privacy (PP)  
**Sent:** Monday, November 9, 2020 2:27 PM  
**To:** Carroll, Thomas <Carroll.Thomas@epa.gov>; Dykes, Teresa <Dykes.Teresa@epa.gov>  
**Subject:** FW: Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Tom,

I'm writing about an invitation I received from the Environmental Law Institute to speak on a panel in about one month. I've consulted Terri Dykes, OCE's Assistant Deputy Ethics Officer, and am seeking permission to join this panel and speak in my personal capacity. This is governed by 5 CFR §6401.103 ("Prior approval for outside employment."). Terri is delegated to approve this, but recommends that Rosemarie sign off on this one. I'm coming to you first. Terri, thanks for your counsel so far, and please let me know if I can improve this written request.

Below this email is the invitation I received, and attached is the draft promotional flyer for the event.

Here are the elements required to support my request for approval (per 5 CFR 6401.103(b), cited here *in italics*), and my corresponding answers.

*(b) Form and content of request. The employee's request for approval of outside employment shall be submitted in writing to his or her Deputy Ethics Official. The request shall be sent through the employee's immediate supervisor (for the supervisor's information) and shall include:*

<i>(1) Employee's name, title and grade;</i>	Ex. 6 Personal Privacy (PP)
<i>(2) Nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;</i>	<p>No compensation.</p> <p>Evan would join a panel at an annual meeting of the "Emerging Leaders Initiative" which is a professional network group within the Environmental Law Institute. This is a one-hour panel, and Evan would be one of 3+ panelists. Evan would speak in his personal capacity, and would make that explicit. Further, Evan would uphold his responsibility not to misuse his position, title, Government property, or nonpublic information. Evan would use or permit the use of his title or position in connection with his speaking only when it is used for purposes of identification, provided it is included as one of several biographical details. Evan would require ELI to amend the draft agenda to eliminate the use of Evan's title.</p> <p>The panel title and description is as follows: "<i>Panel 4: The 2020 Election – Where Do We Go From Here? This panel will explore the implications of the 2020 election through the environmental law and policy lens. Leading panelists will explore potential challenges and opportunities to come as the country transitions into the next presidential administration, with a special focus on next-gen leadership and engagement for this transitional time.</i>"</p>

<i>(3) The name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next 6 months);</i>	Environmental Law Institute
<i>(4) The estimated time to be devoted to the activity;</i>	One hour presentation. Two hours preparation.
<i>(5) Whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required);</i>	Preparation will be entirely outside of the normal duty hours. Evan will use annual leave to attend this 5-hour event which occurs during normal duty hours.
<i>(6) The employee's statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;</i>	No official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment.
<i>(7) The basis for compensation (e.g., fee, per diem, per annum, etc.);</i>	No compensation
<i>(8) The employee's statement that he or she has read, is familiar with, and will abide by the restrictions described in 5 CFR part 2635 and § 6401.102; and</i>	I have read, am familiar with, and will abide by the restrictions described in 5 CFR part 2635 and § 6401.102.
<i>(9) An identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided.</i>	None to my knowledge.

**From:** Caitlin McCarthy <mccarthy@eli.org>

**Sent:** Thursday, October 29, 2020 2:15 PM

**To:** Ex. 6 Personal Privacy (PP)

**Subject:** Remote Speaking Invitation: ELI ELI Annual Summit (Dec 9)

Dear Ex. 6 Personal Privacy (PP)

I hope this finds you well. On behalf of the Environmental Law Institute, I am delighted to invite you to join us as an expert panelist for the first ever **ELI Emerging Leaders Initiative Annual Summit** taking place **December 9**. The ELI ELI group was founded with the purpose of connecting, supporting, and fostering dialogue amongst the next generation of rising stars in environmental law and policy. The Summit will convene leading environmental law and policy experts and ELI ELI Leaders.

We would be honored to have you lend your expertise and leadership to **Panel 4: The 2020 Election – Where Do We Go From Here?** This panel will explore the implications of the 2020 election through the environmental law and policy lens. Leading panelists will explore potential challenges and opportunities to come as the country transitions into the next presidential administration, with a special focus on next-gen leadership and engagement for this transitional time. A description of the program, including a list of your fellow invited panelists, is attached.

We would be honored to have you join us for:

Panel Title: **The 2020 Election – Where Do We Go From Here?**  
Time: **4:00 – 5:00 PM ET**  
Location: **Webinar only**

I would like to note that video from this event will be recorded and uploaded to ELI's website. There is also a possibility that we will transcribe portions of the event for publication in one of our journals. I would be seeking your permission for both of these uses.

Please let me know if you are interested in participating. If you have any questions as you decide, please do not hesitate to contact me. Thank you for your consideration.

Thank you,  
Caitlin

Caitlin F. McCarthy  
Director of Education, Associates and Corporate Partnerships  
Environmental Law Institute  
[mccarthy@eli.org](mailto:mccarthy@eli.org) | [www.eli.org](http://www.eli.org) | *Contact for remote phone number*

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